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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,409	10/14/2003	Shigchiko Kokubo	P1254US	6843
1218	7590	08/17/2006	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	
DATE MAILED: 08/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/686,409		KOKUBO, SHIGEHICO	
	Examiner		Art Unit	
	LIEN TM NGO		3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6,7,10,11,19 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,7,10,11,19 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/19/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/17/06 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 3, 11, 19 and 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Herrick et al. (2,889,089). Herrick et al. disclose, in figs. 1&2, a nozzle comprising a discharge hole 22 to be hermitically sealed by an inner top portion of a cap 38; a ring-shaped projection 20 formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap; a constricted portion 19 formed below the ring-shaped projection; and a flange portion spaced from the top end of the nozzle and configured to be in contact with the top of the neck portion. The constricted portion having an inwardly curved external surface with a minimum cross-sectional

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dimension that is less than external cross-sectional dimensions defined by the flange portion and the ring-shaped projection, and a hinge 37. The nozzle further comprises a convex arcuate portion extending from the top end of the nozzle to the ring-shaped projection, the convex arcuate outer surface defining a maximum external cross-sectional dimension that is less than the external cross-sectional dimension of the ring-shaped projection but greater than the minimum cross-sectional dimension of the constricted portion.

4. Claims 1, 3, 6, 19, 22, 23, 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (5,799,836). Lee discloses, in figs. 4 and 6, a nozzle comprising a discharge hole 14 to be hermitically sealed by an inner top portion of a cap 20; a ring-shaped projection 12 formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap; a constricted portion 23 formed below the ring-shaped projection; and a flange portion 10 spaced from the top end of the nozzle and configured to be in contact with the top of the neck portion, and a plurality of fins 11. The constricted portion having an inwardly curved external surface with a minimum cross-sectional dimension that is less than external cross-sectional dimensions defined by the flange portion and the ring-shaped projection. The nozzle further comprises a convex arcuate portion extending from the top end of the nozzle to the ring-shaped projection, the convex arcuate outer surface defining a maximum external cross-sectional dimension that is less than the external cross-sectional dimension of the ring-shaped projection but greater than the minimum cross-sectional dimension of the constricted portion.

5. Claims 1, 3, 7 and 19 are rejected under 35 U.S.C. 102(a) as being anticipated by Hamarmoto (EP 1266840). Hamarmoto discloses, in figs. 1 and 2, a nozzle comprising a discharge hole 3a to be hermitically sealed by an inner top portion of a cap 40; a ring-shaped projection 5 formed an upper portion of the nozzle and hermitically brought into contact with the inner surface of the cap; a constricted portion 31 formed below the ring-shaped projection; and a flange portion 31b spaced from the top end of the nozzle and configured to be in contact with the top of the neck portion. The constricted portion having an inwardly curved external surface with a minimum cross-sectional dimension that is less than external cross-sectional dimensions defined by the flange portion and the ring-shaped projection.

Claim Rejections - 35 USC § 103

6. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamarmoto in view of Lee. Hamarmoto does not disclose the nozzle at least two fins.

Lee teaches, a nozzle of a cap comprising at least two fins.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the nozzle in the Hamarmoto invention with at least two fins, as taught by Lee, in order to enhance the sealing of the cap.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO
Primary Examiner
Art Unit 3754

August 15, 2006

